

## **REMARKS**

Upon entry of the present amendment, claims 8, 10, 12, 21, 23, and 24 will have been amended. No claims will have been canceled and no additional claims will have been submitted for consideration by the Examiner.

In view of the herein contained amendments and remarks, Applicant respectfully request reconsideration and withdrawal of the outstanding rejection together with an indication of the allowability of all the claims pending in the present application. Such action is now believed to be appropriate and proper and is thus respectfully requested, in due course.

In the outstanding official action, the Examiner objected to the drawings and indicated that figure 7 should be designated by a legend such as "prior art". Attached to the present amendment, Applicant has submitted a replacement sheet containing figure 7 which has been identified by a legend "prior art". Accordingly, Applicant respectfully requests that the Examiner withdraws the objection to the drawings and explicitly indicate the acceptance of all the drawings in the present application.

Initially, Applicant wishes to respectfully thank the Examiner for indicating her consideration of the documents cited in the Supplemental Information Disclosure Statement filed in the present application on January 4, 2010 by returning, attached to the outstanding official action, an appropriately annotated copy of the PTO-1449 form attached to the above-noted Information Disclosure Statement.

In the outstanding official action, the Examiner rejected claims 8, 10, 12, 21, 23 and 24 under 35 USC 101 as being directed to non statutory subject matter. With regard to claims 8 and 24, the Examiner indicated that the features of these method claims are not tied to a machine or apparatus. The Examiner asserted that the method of claims 8 and 24 need not be performed by

any specific machine, and thus could be purely mental. The Examiner required the method of these claims to be tied to another statutory class of invention.

By the present response, Applicant has amended both of the above noted claims so as to relate the features thereof to various apparatus. In particular, and utilizing claim 8 as a non limiting example, the generating is now recited as being performed "by a signal generator", the outputting is now recited as being performed "by an adder", and the obtaining has been defined to be performed "by a frequency signal transformer". Accordingly, it is respectfully submitted that the basis for the Examiner's rejection of these claims has been overcome and that these claims are now in full compliance with 35 USC 101.

With respect to claims 10, 12, 21 and 23, the Examiner asserted that the computer readable medium defined in each of these claims can include transitory propagating signals per se, in view of the ordinary and customary meaning of computer readable media. The Examiner indicated that these claims do not specifically define the computer readable medium as non-transitory and accordingly these claims are considered to be non-statutory under 35 USC 101.

By the present response, each of these claims has now been amended to define a "non-transitory" computer readable medium. Accordingly, it is respectfully submitted that the basis for the Examiner's rejection of these claims has also been overcome and that these claims are now certainly in full compliance with 35 USC 101.

In view of the above, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of any claims in the present application under 35 USC 101 and indicate the allowability of all of the claims pending in the present application. Such action is now believed to be appropriate and is thus respectfully requested.

In the outstanding official action, the Examiner indicated claims 1-7 and 13-19 to be allowed. Applicant notes the Examiner's indication with obvious acquiescence.

Applicant additionally notes the Examiner's statement of reasons for the indication of allowable subject matter. In this regard, while Applicant does not disagree with any of the indicated features, Applicant additionally notes that each of the claims pending in the present application defines a particular combination of features and that the patentability of each claim is additionally based on the particular combination of features recited therein. Accordingly, the reasons for allowability should not be limited to those features explicitly enumerated by the Examiner.

## **SUMMARY AND CONCLUSION**

Applicant has made a sincere effort to place the present application into condition for allowance and believes that he has now done so. Applicant has amended the claims but not to narrow the scope of the same nor in view of the prior art. Accordingly, no prosecution history estoppel should apply to the claim amendments contained in the present paper. Rather, Applicant has amended the claims to ensure that each of the claims even more clearly defines statutory subject matter in accordance with 35 USC 101. In particular, Applicant has recited that the features of the method claims are tied to another statutory class of invention and that the computer readable medium claims are directed to a non-transitory medium.

Accordingly, Applicant has provided a clear and convincing evidentiary basis supporting the patentability of each of the claims in the present application and respectfully requests an indication to such effect in due course.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should an extension of time be necessary to maintain the pendency of this application, including any extensions of time required to place the application in condition for allowance by an Examiner's Amendment, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 19-0089.

Should the Examiner have any questions or comments regarding this response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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